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Paper No. 12

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In re Application of  
Nakamura et al.  
Application No. 09/559,261  
Filed: April 27, 2000  
For: POINTING DEVICE

FEB 13 2004

DIRECTOR OFFICE  
TECHNOLOGY CENTER 2600

DECISION ON PETITION  
TO WITHDRAW HOLDING OF  
ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment pursuant to 37 C.F.R. § 1.181(a), filed December 3, 2003. No fee is required.

This application was held as abandoned for failure to file a timely response to the outstanding Office action, mailed December 18, 2002. A Notice of Abandonment was mailed November 3, 2003.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c), section II. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has satisfied the requirements set forth above. The petition is **GRANTED**.

The Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

It is noted that the correspondence address was changed after applicants' response of September 30, 2002 (paper No. 8). Applicants are reminded of the necessity to properly notify the Office of any correspondence change.

The application file is being returned to the examiner for update of the Office action as appropriate. From there, the application will be forwarded to the TC2600 Technical Support Staff for mailing of the updated Office action. The period for response will be set to run from the date of the new mailing.

  
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